

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ALICE NUNNERY,

Plaintiff,

v.

KITSAP COUNTY, et al.,

Defendants.

CASE NO. C17-5225 BHS

ORDER DENYING PLAINTIFF'S
MOTION TO PROCEED *IN*
FORMA PAUPERIS AND
REMANDING

This matter comes before the Court on Plaintiff Alice Nunnery's ("Nunnery") notice of removal (Dkt. 1), complaint (Dkt. 1-1), and motion to proceed *in forma pauperis* (Dkt. 2).

On March 27, 2017, Nunnery removed her complaint from Kitsap County Superior Court for the State of Washington asserting that the Court has jurisdiction under 28 U.S.C. 1331 because a federal question appears on the face of the complaint. Dkt. 1. Nunnery also requests leave to proceed *in forma pauperis*. Dkt. 2.

The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a); W.D. Wash. Local Rules LCR 3(b). However, the "privilege of pleading *in forma pauperis* . . . in

1 civil actions for damages should be allowed only in exceptional circumstances.” *Wilborn*
2 *v. Escalderon*, 789 F.2d 1328 (9th Cir. 1986). The court has broad discretion in denying
3 an application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir.
4 1963), *cert. denied* 375 U.S. 845 (1963)

5 In this case, the Court denies the motion to proceed *in forma pauperis* and
6 remands the matter *sua sponte*. The rules of removal provide that “any civil action
7 brought in a State court of which the district courts of the United States have original
8 jurisdiction, may be removed by the defendant or the defendants” 28 U.S.C. §
9 1441(a). “No right exists in favor of a person who, as plaintiff, has filed an action in the
10 state court, to cause the removal of such action to a federal court.” *In re Walker*, 375
11 F.2d 678, 678 (9th Cir. 1967). Nunnery, who filed this action in state court, does not
12 have a right to remove this action to federal court. Moreover, even if she possessed a
13 right to remove, the complaint fails to state a federal cause of action on its face. Thus,
14 the Court **DENIES** Nunnery’s motion to proceed *in forma pauperis* because removal is
15 improper and **REMANDS** the matter to Kitsap County Superior Court. The Clerk shall
16 remand this matter and close this case.

17 **IT IS SO ORDERED.**

18 Dated this 30th day of March, 2017.

19 

20 BENJAMIN H. SETTLE
21 United States District Judge
22